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2
3 WHATCOM COUNTY COUNCIL
4 **Regular County Council**

5
6 January 26, 2010
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9

10 **CALL TO ORDER**

11
12 Council Chair Sam Crawford called the meeting to order at 7:00 p.m. in the Council
13 Chambers, 311 Grand Avenue, Bellingham, Washington.
14

15
16 **ROLL CALL**

17
18 **Present:** Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, L.
19 Ward Nelson and Carl Weimer

20 **Absent:** None
21
22

23 **FLAG SALUTE**

24
25
26 **ANNOUNCEMENTS**

27
28 Crawford announced that the Committee of the Whole discussed the following two
29 items in executive session:
30

- 31 1. Strategy planning discussion and positions to be taken regarding collective
32 bargaining (AB2010-018)
33
34 2. Update and discussion regarding Lummi Island Ferry dock negotiations
35 (AB2010-078)
36

37 Crawford also announced that the Committee of the Whole had a **discussion with**
38 **the Council's Planning and Policy Analyst regarding work assignments (AB2010-**
39 **017).**
40

41
42 **MINUTES CONSENT**

43
44 **1. SPECIAL COUNTY COUNCIL FOR DECEMBER 8, 2009**

45
46 ***Brenner moved*** to approve the Minutes item.
47

48 The motion carried by the following vote:

49 **Ayes:** Nelson, Crawford, Brenner, Weimer, and Knutzen (5)

50 **Nays:** None (0)

51 **Abstain:** Mann and Kershner (2)
52
53

1 **OPEN SESSION**
2

3 The following people spoke:

- 4 • Abe Jacobson, 2314 Samish Way, Bellingham, submitted and read from
5 testimony (*on file*) and spoke on the process for Planning Commission
6 appointments at the last Council meeting.
- 7 • (*Clerk's Note: The speaker following Abe Jacobson requested that his/her*
8 *testimony not be included in the minutes.*)
- 9 • Bob Busch, Lummi Island, submitted and read from testimony (*on file*) and
10 spoke on the ferry dock situation as it's related to emergency response.
- 11 • John Lesow, Point Roberts, submitted and read from handouts and spoke on a
12 donation account that has been opened at Whatcom Educational Credit Union
13 (WECU) for Rebecca Boonstra and the Planning Commission's receipt of a
14 letter from Skagit County regarding a critical areas ordinance infraction.
- 15 • Dana Brandt, 1435 Humbolt Street, spoke in support of the Sustainable
16 Connections contract.
- 17 • Seth Bidana, Western Washington University Campus Sustainability
18 Coordinator, spoke in support of the Sustainable Connections contract.
- 19 • Bob Wiesen, 3314 Douglas Road, spoke on the process regarding limited
20 areas of more intense rural developments (LAMIRDS) and the Planning
21 Commission appointment process.
- 22 • Joseph Knight, 3880 Cabrant Road, Everson, spoke on the Planning
23 Commission appointment process at the last meeting.
- 24 • Leah Raney, 5814 Maleng Road, Acme, submitted handouts (*on file*) and
25 spoke on concerns about a proposed park in the Acme Valley.
- 26 • Alex Ramel, Sustainable Connections Energy Program Manager, spoke in
27 support of the contract with Sustainable Connections.
- 28 • Larry Helm, 2660 E. 41st Terrace, spoke on the Skagit County critical areas
29 ordinance infraction.
30

31 **PUBLIC HEARINGS**
32

33
34 **1. ORDINANCE PROHIBITING THE ILLEGAL AND ILLICIT DISCHARGE OF**
35 **HAZARDOUS MATERIALS AND NON-STORMWATER RUNOFF TO THE**
36 **COUNTY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) (AB2009-**
37 **320D)**
38

39
40 Crawford opened the public hearing and, hearing no one, closed the public hearing.
41

42 ***Nelson moved*** to adopt the ordinance.
43

44 Brenner asked if the section regarding applicability and severability included
45 consideration of whether they want to have an urban level and a rural level.
46

47 Jon Hutchings, Public Works Department, stated there was a discussion about
48 whether or not the area in the Lake Whatcom watershed outside of the national pollutant
49 discharge elimination system (NPDES) phase two permit should apply. The previous Council
50 decided that it should apply, based on the observation that the NPDES phase two area will
51 likely encompass the rest of the watershed by the year 2012.
52

1 Mann asked why they need an ordinance about something that is already illegal.
2 Hutchings stated the Clean Water Act delegates to the State the responsibility for managing
3 stormwater under the NPDES. It's done through a permit system mandated by the State.
4 The State sets permit requirements that include the adoption of an ordinance by a local
5 government to accomplish that which is already on the books under State law.
6

7 Nelson asked how they enforce against people who divert water from their property
8 onto other properties, and if that's an illicit discharge. Hutchings stated it is not an illicit
9 discharge. It has to do with the point in which it enters the County's jurisdiction. Polluted
10 water is defined in the ordinance, and the language is straight out of State statute. The
11 County is seeking administrative authority over a threshold that triggers enforcement. The
12 Planning Department and Health Department will do enforcement. The County must
13 balance compliance with State law against not overreaching its authority and overburdening
14 individuals. They've worked closely with the Prosecutor's Office to develop an ordinance
15 that meets the letter of the law, is truly enforceable, and has the appropriate level of
16 administrative discretion to decide what is reasonable and what is not.
17

18 Nelson stated he hopes the administration works with the public to help them
19 understand what is a discharge into municipal systems. Hutchings stated this ordinance
20 replaces the interim ordinance. They intend to work with landowners and deal with those
21 issues as reasonably as possible before resorting to enforcement.
22

23 Weimer stated he supports the ordinance and thanks staff. This ordinance is much
24 clearer and causes less concern than the interim ordinance.
25

26 Brenner stated the definition of pollution is very broad. She asked if staff has talked
27 to any other counties about their language. She asked if the Council can revisit this section.
28 Hutchings stated the Council can revisit the ordinance at its discretion. Most other counties
29 adopted the ordinance that is in place now, and have not veered from that.
30

31 Knutzen asked if agriculture is exempt. Hutchings stated this applies to the areas
32 that are regulated under the NPDES phase two permit, which are urban growth areas and
33 those census areas with a density greater than 1,000 per square mile.
34

35 The motion carried by the following vote:

36 **Ayes:** Mann, Kershner, Nelson, Crawford, Brenner, Weimer, and Knutzen (7)

37 **Nays:** None (0)
38

39 **2. ORDINANCE AMENDING WCC TITLE 20.80.636, 20.80.734, AND 20.04.076**
40 **REGARDING STORMWATER MANAGEMENT REQUIREMENTS, GENERAL**
41 **REVIEW THRESHOLDS, AND NPDES PHASE II BOUNDARIES (AB2010-046)**
42

43 Crawford opened the public hearing and, hearing no one, closed the public hearing.
44

45 *Weimer moved* to adopt the ordinance.
46

47 Crawford asked staff the difference between this and the previous item.
48

49 Roland Middleton, Public Works Department, stated this item amends the Whatcom
50 County Code Title 20 and modifies thresholds for clearing permits and requirement of the
51 Department of Ecology (DOE) stormwater manual. It doesn't do a lot on the ground. Most
52 of the area is city urban growth areas. The County already has interlocal agreements with

1 cities to do the DOE manual anyway. All this does is make the County Code comply with
2 the requirements of the NPDES phase two permit.

3
4 Knutzen referenced Council packet page 363 and asked about the two-acre threshold
5 in the rural zone, outside the NPDES phase two permit area.

6
7 Chip Anderson, Public Works Department, stated the current clearing threshold is
8 two acres. The phase two permit requires that threshold be reduced to a one-acre
9 threshold in the NPDES boundary.

10
11 Middleton stated the current clearing threshold is two acres everywhere. Now
12 they're dropping it down to one acre inside the NPDES boundaries.

13
14 Knutzen asked for a definition of 'frequently flooded areas.' Middleton stated it is the
15 100-year flood plain according to the Federal Emergency Management Agency (FEMA).

16
17 The motion carried by the following vote:

18 **Ayes:** Mann, Kershner, Nelson, Crawford, Brenner, Weimer, and Knutzen (7)

19 **Nays:** None (0)

20
21 **3. WASHINGTON STATE AUDITOR'S PERFORMANCE AUDIT REPORT (AB2010-**
22 **050)**

23
24 Crawford opened the public hearing and, hearing no one, closed the public hearing.

25
26 David Stalheim, Planning and Development Services Director, gave a staff report on
27 the issues involved in permit process and stated Initiative 900 requires the legislative body
28 to hold a public hearing once the Auditor releases a report. The Council is not asked to do
29 anything right now. By July, they will bring back a response for the Auditor.

30
31 Brenner asked how code enforcement expenses are included in the permit expenses.
32 Code enforcement happens after the fact. Stalheim stated the Auditor did not believe that
33 code enforcement could be recovered at all in the permit fees. However, the County
34 believes that is an expense of the building department. They want to try to separate code
35 enforcement activity related to building permits versus activity related to critical areas or
36 shorelines, and propose that amount to the cost-allocation plan.

37
38 Brenner stated fees are for direct services, not for ancillary services, such as
39 department time-tracking. She asked if all fees should have a standard amount of time
40 assigned to it. Stalheim stated building permit fees are typically done in comparison to
41 other jurisdictions. They're trying to track a few cases so they can have an accurate
42 comparison.

43
44 Brenner stated they are not allowed to take a longer term approach in accounting
45 permit revenue regarding staffing because they charge a fee. She asked if most planning
46 staff are cross-trained to do things other than permitting, if the fee goes down. Stalheim
47 stated this audit was only about the building permit inspection program, not about the other
48 aspects of the department. They must look at staffing over a period of time longer than one
49 year. That would always be a rollercoaster. They must lengthen that timeframe to a couple
50 of years.

51
52 Brenner asked if things would be more even if people are cross-trained to perform
53 other services. Stalheim stated it could potentially.

1
2 Knutzen asked if the administration operates a separate fund for instances in which
3 there are fluctuations in funding. Stalheim stated there is not an enterprise fund. It all
4 comes from the general fund. The money in the better years can't cover other years.
5 That's an option with pros and cons.
6

7 **4. ORDINANCE STAYING PRO-ACTIVE ENFORCEMENT OF WHATCOM COUNTY**
8 **CODE 24.05, ON-SITE SEWAGE SYSTEM REGULATIONS, IN CASES WHERE**
9 **PROPERTY OWNERS ARE OTHERWISE NOT TRANSFERRING TITLE OR**
10 **CONVEYING REAL ESTATE (AB2009-135)**
11

12 Brenner stated she sent the wrong draft of the ordinance for introduction. It lacked
13 the amendments she made to it. The copy in the packet is not the intended document. She
14 read the provisions in the intended draft, which includes eliminating the requirement for
15 professional inspections, offering everyone homeowner classes, and setting up a low-
16 interest loan program. The intended draft does not eliminate State law requirements
17 regarding frequency of inspections. It allows homeowners to do their own inspections.
18 However, they haven't had a legal opinion on the constitutionality of the inspection
19 requirements of this Washington Administrative Code (WAC), although the issue has been
20 raised repeatedly. Ask the Prosecutor to give an opinion, or request an opinion from the
21 State Attorney General.
22

23 They can work on both drafts and input they receive from the public at the hearing.
24 To incorporate significant input from the public on controversial issues requires more than
25 one hearing. It would not be a problem to add the correct draft to their discussions after
26 the hearing. They can adopt an interim ordinance tonight, after the hearing, to stay
27 enforcement of professional inspections, and take the time necessary for in-depth
28 discussion. She is sorry for introducing the wrong draft. It had nothing to do with people
29 who have blogs or with veteran councilmembers not vetting enough before introducing it. It
30 had to do with her lack of proficiency on the computer. A simple conversation with her
31 would have cleared that up. A public hearing is an excellent place to vet the draft that was
32 introduced. They have gotten an opinion from Prosecuting Attorney Randy Watts that there
33 is a constitutional issue specifically and especially with professional inspections. He said the
34 Council may adopt what was introduced as an interim, knowing that they are going to
35 continue to amend it.
36

37 Karen Frakes, Prosecutor's Office, stated that adopting this ordinance tonight would
38 not make it an interim ordinance. In this case, they would be adopting an ordinance. The
39 Council may intend for it to be interim, but it could be on the books forever. Her only
40 concern is about having a public hearing on the ordinance that was introduced. It sounds
41 like the ordinance they introduced doesn't include certain provisions.
42

43 Brenner stated the introduced ordinance has a lot more specific information and is
44 more finely tailored.
45

46 Crawford stated what was submitted to the public for a hearing is quite a bit
47 different. Councilmember Brenner would like an immediate stay on the enforcement of the
48 existing ordinance, in the absence of an introduction and hearing on an ordinance different
49 from what was introduced. He asked if there is an action the Council can take to limit
50 enforcement. Frakes stated it needs to be done by ordinance. The only possibility is if it
51 falls under the criteria necessary to adopt an emergency ordinance.
52

1 Regina Delahunt, Health Department, stated the stay can be handled
2 administratively for two weeks, if that's what the Council decides. The new ordinance would
3 be introduced tonight, and acted on appropriately. It's not necessary to pass another
4 ordinance tonight, for two weeks.
5

6 John Wolpers, Health Department, gave a staff report and described the history of
7 this issue, operations and maintenance (O&M) programs developed to-date, and the current
8 status of reports of system status submitted.
9

10 Crawford opened the public hearing and the following people spoke:
11

12 Keats Garmin, 8710 Oertel, Blaine, stated continue the inspection program as
13 currently designed. It has benefits that include early detection of repair and maintenance
14 needs, owner education and information, documentation of systems not currently in County
15 records, help in cleaning up pollution of waters, and environmental protection. If initial
16 inspections are allowed by owners, add a provision for a random audit of these to ensure
17 accuracy and completeness. Funding for the audit could come from fees from owner
18 education classes or a small increase in the current administrative fee. Hold public health
19 and environmental quality of utmost importance when considering this issue.
20

21 Susan Burke, Marine Resources Committee, submitted and read from a handout (*on*
22 *file*). They are concerned about the potential relaxation of regulations. People could choose
23 to do self-inspections or hire a professional, but self inspections could be audited.
24

25 Percy Hoekema, 1448 Emerson Road, Everson, stated his concern is that they
26 shouldn't go on people's property without permission.
27

28 Marita Goldsmith, Point Roberts, stated the waters around Point Roberts were
29 consistently the cleanest waters in the lower mainland in 2003. Since then, there have
30 been unreasonable regulations from the State and County Council hardliners for reasons of
31 political ambitions. It is a lie that e-coli and fecal matter in Puget Sound is from 30,000
32 septic tanks. That claim turns people against other people. They are avoiding blaming big
33 business, collecting new revenues, creating jobs for septic installers, and appeasing the new
34 power from environmentalists.
35

36 Tom Graham, 5570 Starry Road, Bellingham, stated Councilmember Brenner has
37 represented the people from the beginning. He thanked her. Times are hard.
38

39 Janice Claussen, 3781 Brownsville Place, Bellingham, stated she experienced a
40 municipal salmonella epidemic almost 40 years ago. She is concerned about anything that
41 can affect the water supply.
42

43 Bill Barquist, 8608 Stein Road, Custer, stated his inspection last spring cost \$200,
44 and his system was just fine. He already knew it. He is peeved about the regulations.
45 They shouldn't have to spend money to prove they are innocent. Allow people to inspect
46 their own systems.
47

48 Sunny Meehan, 7779 Ham Road, Custer, stated his system was inspected and was
49 fine. He tried to sign up for a class, but was told he couldn't because he has a white water
50 system. If they are going to allow people to take classes to manage their own systems,
51 allow a provision for those who have white water systems. A \$75 filing fee is too much.
52

1 Patrick Grover, 3965 Loomis Trail Road, Blaine, stated he has both versions of the
2 proposed ordinances. The second version is much better. One problem not addressed is
3 elderly widows not capable of inspecting their own systems. They may have others who
4 could do the inspections for them, but those others aren't the property owners. Someone
5 who has been trained should be able to do the inspections for them. Allow an alternative
6 for a homeowner who is physically unable to do an inspection. Regarding fees, \$35 per
7 15,000 inspections per year equals \$525,000 in reporting fees. They don't need to increase
8 that. It's extra income that won't be all consumed by administrative costs.
9

10 Wendy Steffensen, RE Sources North Sound Baykeeper, submitted and read from a
11 handout (*on file*). They are disappointed in the proposal to roll back the current program.
12 Septic systems need to be regulated. She is concerned about those people not proactively
13 getting their systems fixed. They need to deal with low-income folks directly. Develop a
14 proactive way to help people protect water quality, rather than throw out an effective
15 program.
16

17 Ken Cameron, Point Roberts, stated he is concerned about the Point and is
18 committed to a clean environment. The County permitted small-lot subdivisions on Point
19 Roberts. It must have been clear that onsite septic systems couldn't provide effective waste
20 disposal on those lots. Mandatory inspections and upgrades requires a large financial
21 burden. It will force some owners to sell, and will affect the market value of properties.
22 Because the County contributed to this situation, it must pay greater attention to the
23 situation in Point Roberts. One factor is the presence of systems installed before permits
24 were required and systems that met permit requirements at the time of installation. A
25 second factor is the seasonal and limited use of many of the systems. A third factor is that
26 the Point doesn't use groundwater for drinking purposes. A fourth factor is the lack of any
27 evidence of any soil or water pollution caused by Point Roberts systems. Support the
28 proposed ordinance, and pay attention to Point Roberts.
29

30 Art Anderson, 5326 Williams Road, Everson, stated he supports the Brenner proposal
31 to allow residents to take a class and do self-inspections after taking a class. Whatcom
32 County residents will be very observant with their systems, and get them fixed if necessary.
33 Those on fixed incomes don't need extra fees and tax increases.
34

35 Terry Doyle, 1729 Province Road, Point Roberts, stated they all know they need to
36 look after the environment. However, he doesn't understand the sledge hammer approach
37 to dealing with septic owners whose systems have failed. The fees and timelines are
38 excessive and unreasonable. The Health Department gave him an extension, but he was
39 told he would be fined \$125 per day for every day past the due date. He also will have to
40 pay a \$900 permit fee. The public was blind-sided by these letters. Whatcom County drags
41 their feet in Point Roberts on getting their waste disposal pickup and replacing broken water
42 mains. The County is vehement in enforcing this regulation when it can't do things that
43 really count in Point Roberts.
44

45 Al Melton, 1420 Mt. Baker Highway, stated he supports Councilmember Brenner and
46 Crawford's efforts to lessen onsite septic system (OSS) rules. The Health Department
47 passed up money from the State to fund public information, classes, owner inspections, and
48 low-interest loans for repairs and installations. Septic systems have a low failure rate and
49 little to do with polluting local waters. There are other causes for pollution. Most septic
50 owners are trustworthy and maintain their systems.
51

52 Perry Eskridge, Whatcom County Association of Realtors, submitted and read from a
53 handout (*on file*). He is in favor of homeowner self-inspections. The proposed regulation

1 includes a current report of system status before their can be a transfer of property.
2 However, it is not the purview of the Council to interfere with real estate contracts.
3 Transactions have been held up because of this. The Washington Administrative Code
4 (WAC) requires that maintenance records be provided to the purchases if available. State
5 law already has a disclosure requirement for septic systems. It's not incumbent upon the
6 Council to impose another disclosure requirement.
7

8 Don Imhof, 2869 W. 63rd Lane, Ferndale, stated they need education and to inspect
9 and repair failing systems. However, don't force paid inspections every three years on
10 something that is working properly. Allow homeowners to self-inspect.
11

12 David Bower, 2074 Harksell Road, stated he supports allowing homeowners to self -
13 inspect their own tanks. Make the class schedule and fees easy to obtain. He shouldn't
14 have to pay more because someone else isn't obeying the law. People who have taken the
15 class should be allowed to do inspections for immediate family members. Failure rates in
16 certain older, more established neighborhoods may be higher than in newer neighborhoods.
17 The way people have to pay makes them required to prove their innocence.
18

19 Abe Jacobsen, 2314 Samish Way, Bellingham, stated he is generally in favor of
20 reducing this regulatory burden, but hopes they can build into the program robust
21 inspections so they can find the people who are not taking care of their systems. This room
22 is full of extremely knowledgeable, motivated, and responsible people. More people should
23 be like that. The Council has a fiduciary responsibility to public health. Have some kind of
24 rolling inspections or some kind of presence at the County to trust, but verify.
25

26 Steve Schneider, 2455 Tuttle Lane, Lummi Island, submitted and read from a
27 handout (*on file*). He is a septic designer, and will continue to have work regardless of the
28 regulations. He supports retaining the current OSS regulations. Repair of failing systems is
29 the most critical, and will result in the most immediate improvement to public health and
30 the environment. He fears that failing systems will not be reported by self-inspectors.
31 These regulations are not meant to burden honest owners, but to protect against dishonest
32 and non-proficient system owners. He submitted suggestions for changes.
33

34 Joe Kirkman, 967 Loomis Trail Road, Lynden, submitted and read from a handout
35 (*on file*). The current septic system process and fees cannot be justified at this time. They
36 need mass education. Modify the rules and remedy the excessive examination fees.
37

38 Steve Hood, State Department of Ecology, stated education is important, but doing
39 the inspection is also important. With the regulations, people are maintaining their systems
40 and don't have to pay for expensive repairs. Maintain the inspection system. Have a good
41 professional inspection to start things off, at the very least. After that, homeowners can do
42 self-inspections. Most of all, have an enforcement program to make sure it's not just the
43 willing people who are doing inspections, but that everyone steps up to that responsibility.
44

45 Wes Kentch, 6870 Enterprise Road, Ferndale, stated he is okay with professional
46 inspections, but the County should pay for it. He maintains his system, and his drinking
47 water is fine.
48

49 Doug Binder, 3858 Sweet Road, Blaine, stated he has been a septic system inspector
50 for many years, and the County won't accept a report of system status (ROSS) for his own
51 system. That's wrong. Many home owners can and should be able to inspect their own
52 system. It shouldn't cost as much as it does. At least allow installers to inspect the
53 systems.

1
2 Dorie Belisle, 231 Ten Mile Road, stated she is against the proposal to change the
3 existing code. There is a waste of taxpayer dollars and a threat to the watersheds. The
4 OSS Advisory Committee worked for over a year on making responsible decisions to meet
5 State and County demands, determine what is best for county citizens and septic system
6 owners, and to protect resources. Don't let the complaining and fear of a few throw away
7 the regulations. The proposal will cost more money in the future as they continue to work
8 to improve failed systems. They are asking homeowners to have a paid inspection every
9 nine years. In 2008, her inspection fee was \$194 and having the system pumped was
10 \$397. Over nine years, that equals an annual fee of \$65.67. They all have money woes,
11 but they must save for what is important. The inspections actually save money from
12 expensive repairs.

13
14 Roger Almskaar, 233 S. State Street, Bellingham, stated allow people to inspect their
15 systems after taking a class. State rules do not require an inspection every time a house or
16 property with a septic system is transferred. A property transfer doesn't require an
17 inspection, according to the State. If they allow neighbors or friends to inspect a system on
18 behalf of someone who cannot inspect their own system, the regulation should call them
19 agents instead of assigns. He suspects many of the failing systems are old ones that
20 weren't built correctly in the first place. Faulty original construction is more likely to be the
21 culprit than inadequate maintenance.

22
23 Jim Julius, 301 Marine Drive, Point Roberts, stated perk tests are done on all sales in
24 Point Roberts. Homes are inspected by a licensed septic tank designer. Those systems
25 work. Point Roberts is probably not the problem. They have their own water supply from
26 Vancouver. If anything gets into a ditch, the rain will wash it away. They would be more
27 effective if they regulated the City of Victoria, which dumps raw sewage into Puget Sound
28 daily, for the last 100 years. Vancouver drains for storm sewage will cause their primary
29 treatment to overflow. Don't be so paranoid about what they are doing to Orca habitat.

30
31 Bob Cecile, 4806 Beach Way, Ferndale, stated he is a member of the Marine
32 Resource Committee. Failing septic systems are real issues. County highway engineers and
33 employees have to deal with the roadside ditches. Be careful about any modifications.
34 Review the suggestions from the Marine Resources Committee. They need staff to do this.
35 The existing program generates more income to create staff positions. Consider the effects
36 on the marine environment if they cast aside these regulations. Particularly consider bays
37 with shellfish beds. The Puget Sound and straits are already showing signs of degradation.
38 Consider the public health of work crews that have to work in roadside ditches in the
39 county.

40
41 Eliana Friedlob, 6934 Holeman Avenue, Birch Bay, stated don't completely throw out
42 the regulations. There are critical issues. Failures are small in number. Many require
43 maintenance. Prevention costs less than major repairs. People do need help, so provide
44 assistance to the people who need it. Be careful about how this is implemented. There is
45 no doubt that untreated sewage in the water has an incredible impact on fish and wildlife
46 and also on public health.

47
48 Shelley Fitzpatrick, 1290 Gulfview Crescent, Point Roberts, stated she can't afford to
49 pay for installing a new system. Most people will have to sell, and the property will be
50 worth nothing. As a Canadian, she can't get money in the States, and she can't put the
51 land up as collateral in Canada because the property is in the United States. These systems
52 only last ten years. Pumps break down after five years. She doesn't have room on her

1 property for a septic system. The same people who are doing the inspections are also the
2 ones who are putting in the systems. That is a conflict of interest.
3

4 Carol Ann Brewer, citizen, stated she represents her brother on Bay Road. Her
5 brother bought the old Jensen place. He wasn't told that the septic system is old. He is not
6 able to put in a new system. He is being harassed. A government agency should not use
7 their power to harass people. Her brother is in fear of being thrown out of his house and
8 that his house will be condemned. Many people with failing system may not be able to
9 afford a new system. Everyone wants clean water. This is not an issue of water. It's an
10 issue of whether a person can or cannot pay. It's not an issue of someone being unwilling.
11 If the government is willing to provide some kind of financing, her brother will be willing to
12 apply for it. Her brother tried to comply with the regulation, but has received an order to
13 get it done.
14

15 Brenner stated that Ms. Brewer's brother is physically disabled, and his wife, who
16 took care of him, died two years ago on the farm.
17

18 George Raper, 3363 Best Lane, Bellingham, stated he thanks Councilmembers
19 Crawford and Brenner for this proposed revision. He supports self-inspection and allowing
20 family members to help with inspection if necessary. Keep the cost down, and let them
21 take the classes. Classes and education are very good ideas. Property owners won't want
22 their property to depreciate, so they will do the best they can with it.
23

24 Pete Ruese, 6229 Aldrich Road, Ferndale, stated The State law says it's the owners'
25 responsibility to operate, monitor, and maintain their systems. Nothing in the State law
26 says that a licensed specialist has to inspect the septic systems. Don't make the regulation
27 more stringent than that. Allow self-inspection and education.
28

29 Pat Spiller, 870 Reveille, Bellingham, stated there was an instance of waste from a
30 failing treatment facility in Sudden Valley. As a contractor, he's dug up and installed many
31 systems. Right now in the city of Bellingham, there are huge amounts of raw sewage
32 running into the drain lines. It's an assumption that the pollution is coming from septic
33 systems. A lot of city sewage is running into the bay. They ought to look at the real causes
34 of the coliform in the water. It doesn't come from failing systems. Allow them the
35 opportunity of inspecting their own system. Use the money from filing fees to help people
36 with failing systems.
37

38 Dale Zaugg, 4181 Red Cedar Road, Blaine, stated he tried to sign up for the class.
39 He takes care of his home and property. He suggests that all homeowners be trained and
40 inspect their own systems, and require a professional inspection every fourth or fifth year
41 for verification.
42

43 Rob Vander Veen, 2074 Willeys Lake Road, Custer, stated he has been a licensed
44 OSS designer for over 20 years. He would like the opportunity to inspect his own systems.
45 They do more to protect the environment than those in other places in the world. Lighten
46 up on inspections, and give themselves a break. He supports the proposed ordinance.
47

48 Christa Brumbuck, citizen, stated he supports the Crawford and Brenner proposed
49 ordinance. The new regulations are too much of a burden to too many citizens. Not
50 everyone should be responsible for the few failing systems. Many are experiencing financial
51 difficulties. Trust the people.
52

1 Hank Terpsma, citizen, stated everyone is talking about money. Those in town pay
2 \$50 or \$60 per month. Those in the County pay about \$5 per month.
3

4 Fred Rheinhard, 3854 Cabrant Road, stated they say that fecal coliform is polluting
5 local waters, but they don't say where or by how much. That comment leads to a
6 bureaucracy that gives people a hard time to stay in their homes. People can't swim in
7 Silver Lake because of swimmer's itch caused by Canadian Geese. The County is being
8 taken by conmen who are putting out bureaucratic paperwork, and the County wants to be
9 careful about what it says so it isn't held accountable. He put his septic system in 40 years
10 ago, and have had no problem.
11

12 Hearing no one else, Crawford closed the public hearing.
13

14 **Brenner moved** to request the administration to stay the portion regarding
15 enforcement of professional inspections for approximately one month. She will put this in
16 committee.
17

18 Crawford stated this stay is only for the proactive inventorying of new septic
19 systems, and doesn't change anything about addressing a known failing system.
20

21 Brenner stated she agrees. Get the low-interest loan set up so they can help people
22 who need help.
23

24 Wolpers stated he reviewed the original proposed ordinance and Councilmember
25 Brenner's amended ordinance. He suggests that the language be addressed in the Health
26 Committee meeting in February. Homeowner evaluations was a recommendation brought
27 to the Council through the Public Health Advisory Board by the Health Department. He
28 supports looking at having homeowners do some of their initial inspections. The proposed
29 language is doable.
30

31 Delahunt stated there are problems with the ordinance as introduced because it
32 doesn't comply with State law. The amended proposed ordinance is close. They need a few
33 clarifications. Originally, the recommendation was to allow homeowner inspection. A
34 previous Council put in place the initial inspection by the professionals. Staff always
35 supported homeowner inspection and homeowner classes.
36

37 Nelson stated there is a lot of anger and frustration in the community. He hopes the
38 Council can regain the trust and faith of the community. All they need to do is keep their
39 ears open and create workable solutions. They need to work on defining a failure. He is
40 concerned about the definition of a failure. They are trying to prevent pollutants off
41 property. Exactly define what constitutes a failure. Delahunt stated that is a clarification
42 they need. Broken pipes are not failures.
43

44 Crawford restated the motion to request the administration not continue to notify
45 folks of the need for professional inspection, which means not pursuing the inventory at this
46 point until they get this resolved.
47

48 Weimer stated he is against the motion. He is in favor of professional inspections.
49 The amended proposal is much closer. The introduced ordinance didn't meet State law.
50 The most recent version of the ordinance does meet State law, and he is close to supporting
51 it. The reason the County is doing this is because of the total maximum daily load (TMDL)
52 study under the Clean Water Act for Lake Whatcom because Lake Whatcom is found to be
53 polluted by fecal coliform. The taxpayers are going to spend hundreds of thousands of

1 dollars to fix that. They have a TMDL study for Portage Bay, which includes the entire
2 Nooksack watershed, because it's been found to be polluted with fecal coliform. The
3 taxpayers have already spent a good deal of money cleaning up that water to get the
4 shellfish beds open again. They have a TMDL study in Drayton Harbor because it's been
5 found to be polluted with fecal coliform. They have spent hundreds of thousands of dollars
6 of taxpayer money to do DNA testing to figure out where that fecal coliform is coming from.
7 They've found that in over half of the places tested, it's coming from humans, most likely
8 through septic systems. They recently had to close parts of Birch Bay because it was found
9 to be polluted with fecal coliform. They don't know yet if it's human. There is significant
10 fecal coliform pollution going on in the county. Almost everywhere, they've found instances
11 where it is human fecal coliform coming from septic systems. There is a need to address
12 this. He is in favor of letting people inspect their own septic systems. He was in favor of
13 professional inspections to begin with because dairy and cattle owners blame people with
14 septic systems, and people with septic systems blame dairy and cattle owners. They won't
15 know who is to blame until they put an end to that. One way to put an end to it is by
16 having an initial septic inspection by professionals so they have a good database of where
17 they are now with the 30,000 systems in this county. After they do that, he is fine with
18 letting property owners do their inspections from there on out. They really need to put an
19 end to the arguments and finger-pointing about where all the known fecal coliform within
20 the county is coming from. That's why he is against this proposal. They really need a one-
21 time professional inspection to put an end to the arguments. There is no doubt there is
22 fecal coliform pollution throughout the county that is not only affecting shellfish, but also
23 has the potential to affect human health in groundwater.
24

25 Brenner stated she disagrees about the polarization between the dairymen and
26 cattlemen and the homeowners. Most of the people who have farms also have septic
27 systems. They do understand. Some people buy property with a septic system, and don't
28 really understand it. The County has never before offered classes. They are offering them
29 now. People will do the right thing after taking a class because they become aware of the
30 true cost if the problems aren't fixed. It has yet to be proven that tests for human fecal
31 coliform track the pollution to onsite septic systems. Having a class is such a huge
32 difference from what they had before. People who take the class will take better care of
33 their systems, which will have a significant impact. This isn't a polarizing issue. She
34 appreciates the respect that was shown tonight.
35

36 The motion carried by the following vote:

37 **Ayes:** Kershner, Nelson, Crawford, Brenner, and Knutzen (5)

38 **Nays:** Mann and Weimer (2)
39

40 *(Clerk's Note: The Council took a break from 10:10 p.m. to 10:18 p.m.)*
41

42 **CONSENT AGENDA**

43
44 **Mann** reported for the Finance and Administrative Services Committee and **moved**
45 to approve Consent Agenda items one through 17.
46

47 Crawford withdrew items one through four.
48

49 The motion to approve Consent Agenda items five through 17 carried by the
50 following vote:

51 **Ayes:** Mann, Kershner, Nelson, Crawford, Brenner, Weimer, and Knutzen (7)

52 **Nays:** None (0)
53

1 **1. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
2 **MEMORANDUM OF UNDERSTANDING BETWEEN WHATCOM COUNTY AND**
3 **WASHINGTON STATE UNIVERSITY TO CONTINUE THE JOINT SHARING OF**
4 **COSTS FOR A FACULTY POSITION FOR WHATCOM COUNTY EXTENSION IN**
5 **2010, IN THE AMOUNT OF \$83,542 (AB2010-036)**
6

7 *Mann moved* to approve the request.
8

9 Crawford asked if Councilmember Knutzen is going to support this item.
10

11 Knutzen stated he sees the value in Cooperative Extension. He supports the motion.
12

13 The motion carried by the following vote:

14 **Ayes:** Mann, Kershner, Nelson, Crawford, Brenner, Weimer, and Knutzen (7)

15 **Nays:** None (0)
16

17 **2. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
18 **CONTRACT BETWEEN WHATCOM COUNTY AND SUSTAINABLE CONNECTIONS**
19 **FOR PROVISION OF GREEN BUILDING AND RESOURCE CONSERVATION**
20 **OUTREACH SERVICES IN 2010, IN THE AMOUNT OF \$20,000 (AB2010-037)**
21

22 *Mann moved* to approve the request.
23

24 Crawford stated he is against the motion. He has a lot of respect for what
25 Sustainable Connections does, and is very impressed with how they can rally the public on
26 their behalf. However, a number of these items are elective and not required. Sustainable
27 Connections and the Green Building program do a lot of good. They are in a situation where
28 the Council will have to cut a lot of things.
29

30 Mann stated this should be the last place the Council should cut. Sustainable
31 Connections returns an amazing amount on the investment from grants and energy savings.
32 It is an economic development, environmental, and educational engine. If every nonprofit
33 were as productive and effective as Sustainable Connections, they'd have a lot easier time.
34 They wouldn't have to spend all the money they have to spend. He strongly supports
35 Sustainable Connections, they work they do, and the return on this investment.
36

37 Brenner stated she is in favor of the contract. Sustainable Connections is the group
38 that brings all elements together. No other organization is as inclusive and draws people in.
39 There has been more and better economic development. Lots of people are getting
40 interested in and learning about alternative energy and other things that save money. It is
41 not an amenity. Sustainable Connections saves the County departments a lot of money.
42

43 Nelson stated the budget information should include returns on investments.
44 Sustainable Connections is an example of a program that provides a return on the
45 investment. Evaluating all the programs is a good idea, but have criteria more than
46 whether or not the program is necessary. Make sure dollars are getting something in
47 return. He supports the motion.
48

49 Crawford stated he appreciates that Sustainable Connections is the impetus for a lot
50 of programs, but he is skeptical that any savings realized could be otherwise realized with
51 County efforts. The County administration and Executive are very interested in
52 conservation in many regards. He's not sure what investment return they're talking about.

1 He doesn't regret spending money on those programs in the past. Now those programs are
2 in place. The County can't afford to continue funding them.
3

4 Knutzen stated he sees the value to the community. However, they must begin to
5 distinguish between wants and needs. He is in favor of the contract for one year, but wants
6 Sustainable Connections to become self-sustaining.
7

8 Mann stated money paid out to Sustainable Connections isn't a want or a need. It's
9 an investment that has massive payback. It's pennywise and pound-foolish to save some
10 money by not funding this contract. It's not about what they've done, but about what they
11 will do next in upcoming years. Sustainable Connections is a model nonprofit that works for
12 this community, raises millions of dollars in grant funds, and sets an example for everyone.
13

14 Brenner stated she suggests that Councilmember Knutzen agree to continue funding
15 if Sustainable Connections can show their benefit financially.
16

17 Knutzen stated there are other organizations that return a value to the community
18 and that the County doesn't fund, such as Building Industry Association (BIA).
19

20 Brenner stated the BIA is not nonprofit. As the County cuts back on programs and
21 staff, the bridge will be working with organizations such as Sustainable Connections and the
22 BIA. They work well together. They don't have to decide between the two. It's about
23 where the money is best spent. The administration and Executive recommend this contract.
24

25 The motion carried by the following vote:

26 **Ayes:** Mann, Kershner, Nelson, Brenner, Weimer, and Knutzen (6)

27 **Nays:** Crawford (1)
28

29 **3. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
30 **CONTRACT BETWEEN WHATCOM COUNTY AND BELLINGHAM FOOD BANK**
31 **FOR THE COLLECTION, WAREHOUSING, AND DISTRIBUTION OF FOOD TO**
32 **LOCAL FOOD BANKS, IN THE AMOUNT OF \$50,000 (AB2010-038)**
33

34 *Mann moved* to approve the request.
35

36 Crawford stated he will vote against this item for the same reasons as the previous
37 agenda item. It's something that the County can afford.
38

39 Kershner stated the County's contribution to the Food Bank is \$58,000. The total
40 income for the Food Bank is \$887,618. Their expenses are \$804,396, leaving them with a
41 net operating income of \$78,222, not including \$5,000 for capital purchases. The \$58,000
42 could be absorbed by their operating income.
43

44 The motion carried by the following vote:

45 **Ayes:** Mann, Brenner, Weimer, and Knutzen (4)

46 **Nays:** Nelson, Crawford, Kershner (3)
47

48 **4. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
49 **CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM VOLUNTEER**
50 **CENTER FOR THE PROVISION OF VOLUNTEER SERVICES, IN THE AMOUNT**
51 **OF \$35,000 (AB2010-039)**
52

53 *Mann moved* to approve the request.

1
2 Crawford stated he will vote against this item for the same reasons as the previous
3 agenda items.
4

5 Nelson stated the County receives 18,000 volunteer hours. They quoted a rate of
6 \$20 per hour, which is high. At a rate of \$11, the savings is \$198,000.
7

8 Dewey Desler, Deputy Administrator, stated the money is also used to support other
9 volunteer efforts throughout the community. The return is not just to the County
10 government.
11

12 Crawford stated he will support the motion.
13

14 The motion carried by the following vote:

15 **Ayes:** Mann, Kershner, Nelson, Crawford, Brenner, Weimer, and Knutzen (7)

16 **Nays:** None (0)
17

18 5. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO**
19 **PROJECT AGREEMENT AMENDMENT #1 WITH THE WASHINGTON STATE**
20 **RECREATION AND CONSERVATION FUNDING BOARD (RCFB) TO INCREASE**
21 **THE AMOUNT OF STATE FUNDING FOR THE ACQUISITION OF LILY POINT BY**
22 **\$436,885 WITH A CORRESPONDING REDUCTION IN THE PROJECT SPONSOR**
23 **MATCH AMOUNT (AB2010-059)**
24

25 6. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
26 **RESIDENTIAL LEASE AGREEMENT WITH DAVID FLARRY AND EMILY SMITH**
27 **TO LEASE 5236 NIELSEN AVE., FERNDAL IN THE TENNANT LAKE**
28 **INTERPRETIVE CENTER, IN THE AMOUNT OF \$650 PER MONTH (AB2010-**
29 **060)**
30

31 7. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO WAIVE BID**
32 **REQUIREMENTS AND ENTER INTO A CONTRACT BETWEEN WHATCOM**
33 **COUNTY AND DOMESTIC VIOLENCE & SEXUAL ASSAULT SERVICES FOR THE**
34 **PROVISION OF ASSISTANCE TO SUPPORT AND REPRESENT THE**
35 **COMMISSION AGAINST DOMESTIC VIOLENCE. IN THE AMOUNT OF \$45,000**
36 **(AB2010-061)**
37

38 8. **RESOLUTION CANCELING UNCOLLECTIBLE PERSONAL PROPERTY TAXES**
39 **(AB2010-062)**
40

41 9. **RESOLUTION APPROVING THE TREASURER'S ANNUAL LIST OF PROPERTY**
42 **TAX REFUNDS CONSISTENT WITH RCW 84.69.020 (AB2010-063)**
43

44 10. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
45 **GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND WASHINGTON**
46 **STATE DEPARTMENT OF ECOLOGY FOR COORDINATED PREVENTION GRANT**
47 **ACTIVITIES TO INCLUDE THE OPERATION OF THE DISPOSAL OF TOXICS**
48 **FACILITY, IN THE AMOUNT OF \$234,577 (AB2010-064)**
49

50 11. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
51 **CONTRACT BETWEEN WHATCOM COUNTY AND CATHOLIC COMMUNITY**
52 **SERVICES FOR JUVENILE COURT BEHAVIORAL HEALTH SPECIALIST**
53 **SERVICES, IN THE AMOUNT OF \$95,000 (AB2010-065)**

- 1
2 12. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
3 PURCHASE OF AN ANNUAL SUPPLY (ON AN AS NEEDED BASIS) OF ASPHALT
4 PRODUCTS UTILIZING WASHINGTON STATE CONTRACT; VENDORS ARE
5 ALBINA ASPHALT, ARROW CONSTRUCTION SUPPLY, PARTNER
6 CONSTRUCTION PRODUCTS, AND SPECIAL ASPHALT PRODUCTS, IN THE
7 AMOUNT OF APPROXIMATELY \$40,000 (AB2010-066)
8
9 13. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
10 PURCHASE OF THE ANNUAL 2010 SUPPLY OF GLASS BEADS FOR TRAFFIC
11 LINE MARKING PAINT USING WASHINGTON STATE CONTRACT AND
12 VENDORS ALPINE PRODUCTS AND POTTERS INDUSTRIES, IN THE AMOUNT
13 OF APPROXIMATELY \$77,000 (AB2010-067)
14
15 14. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
16 PURCHASE OF THE 2010 ANNUAL SUPPLY OF LIGNOSITE FOR DUST
17 CONTROL ON COUNTY ROADS ON AN AS NEEDED BASIS FROM SOLE
18 VENDOR MEENDERINCK, LLC, IN THE AMOUNT OF \$25,000 (AB2010-068)
19
20 15. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
21 PURCHASE OF LUBRICANTS USING WASHINGTON STATE CONTRACT AND
22 VENDOR CONOCO PHILLIPS 76/REISNER DISTRIBUTOR, IN AN AMOUNT
23 THAT COULD EXCEED \$35,000 (AB2010-069)
24
25 16. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
26 PURCHASE OF THE ANNUAL 2010 SUPPLY OF CARQUEST AND NAPA AUTO
27 PARTS FROM LOCAL FRANCHISE DEALERS ON AN AS NEEDED BASIS USING
28 WASHINGTON STATE CONTRACT, IN AN AMOUNT THAT WILL EXCEED
29 \$35,000 (AB2010-070)
30
31 17. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN
32 INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND WHATCOM
33 COUNCIL OF GOVERNMENTS FOR THE DELIVERY OF SERVICES THROUGH
34 THE SMART TRIPS PROGRAM IN THE AMOUNT OF \$60,000 (AB2010-071)
35
36

37 **OTHER ITEMS**

- 38
39 1. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO AN
40 INTERAGENCY AGREEMENT BETWEEN WHATCOM COUNTY FLOOD CONTROL
41 ZONE DISTRICT AND WASHINGTON DEPARTMENT OF ECOLOGY FOR PASS
42 THROUGH FUNDS TO ASSIST WITH THE MANAGING OF SEDIMENT
43 DEPOSITED BY SWIFT CREEK (AB2010-055)
44

45 *(Clerk's Note: Council acting as the Whatcom County Flood Control Zone District*
46 *Board of Supervisors.)*
47

48 **Weimer** reported for the Natural Resources Committee and **moved** to approve the
49 request.
50

51 The motion carried by the following vote:

52 **Ayes:** Mann, Kershner, Nelson, Crawford, Brenner, Weimer, and Knutzen (7)

53 **Nays:** None (0)

1
2 **2. RESOLUTION APPROVING THE SOUTH FORK REGIONAL PARK CONCEPTUAL**
3 **PLAN (AB2010-056)**
4

5 Weimer reported for the Natural Resources Committee and stated this item was held
6 in committee.
7

8 **3. ORDINANCE AMENDING THE 2010 WHATCOM COUNTY BUDGET, FIFTH**
9 **REQUEST, IN THE AMOUNT OF \$599,233 (AB2010-051)**
10

11 **Mann** reported for the Finance and Administrative Services Committee and **moved**
12 to adopt the ordinance. The committee recommends two amendments that exclude
13 \$395,000 for emergency medical services (EMS) and include \$250,000 for Superior Court
14 funding with the condition that they can't spend any of that money until the working group
15 makes a recommendation on Superior Court funding.
16

17 **Nelson moved** to exclude \$250,000 for Superior Court.
18

19 Knutzen stated the Executive's Office will continue to work with Superior Court on a
20 resolution to this.
21

22 **Nelson withdrew his motion.**
23

24 **Mann moved** to exclude item fourteen, which is \$395,000 for emergency medical
25 services (EMS), as recommended by the committee.
26

27 Weimer stated the administration attended an EMS Committee meeting, and was
28 convinced to put this funding in the request. This was ongoing training money that was
29 planned for the already-existing funding for the EMS units, and it's needed to keep that
30 number current, regardless of the District 7 operation. He asked if that's correct.
31

32 Dewey Desler, Deputy Administrator, stated the City has the choice of training these
33 people anytime between 2010 through 2012. They chose to do the training in 2010
34 because it contributed to their objective to get the Western Washington University training
35 program credentials. Since the County is paying for most of it, the committee wanted more
36 information on how implementation is going for the five additional District 7 paramedics that
37 have been trained. The administration will discuss this with the Finance Committee in two
38 weeks.
39

40 Brenner stated they need a legal opinion on whether Dr. Wayne has a conflict of
41 interest in his position. He is keeping paramedics who are ready from getting their
42 certification. That's not right. They are supposed to work for the entire county. That's not
43 happening. She likes the recommendation, but make sure the paramedics they've already
44 paid for are certified first.
45

46 Crawford stated he agrees with Councilmember Brenner. They have five, trained,
47 working paramedics who are ready to go. They have exceeded the hour training
48 requirement that Bellingham has. Yet, the Medical Director is preventing them from doing
49 the local ride-along. The paramedics have done ride-alongs in other jurisdictions, at great
50 cost to the taxpayers, because Bellingham is closing them out. It's time to work with
51 Bellingham to implement the EMS plan that this Council, the City, and the Union adopted in
52 2005. A sales tax increase was attached to that plan, so they can extend the argument to

1 say that the voters of Whatcom County approved the plan. However, these guys are being
2 rejected. That's not fair or a good way to run a system for the people of Whatcom County.
3

4 The motion carried by the following vote:

5 **Ayes:** Mann, Kershner, Nelson, Crawford, Brenner, and Knutzen (6)

6 **Nays:** Weimer (1)
7

8 **Mann moved** to add \$250,000 for Superior Court with the condition that they can't
9 spend any of that money until the working group makes a recommendation on Superior
10 Court funding.
11

12 Brenner stated she supports the idea. The Executive set up this advisory committee
13 that will make recommendations and work with Superior Court and local attorneys. Be
14 ready to give them what they need. They have a good faith offer going on right now, and
15 they ought to stick with it. She doesn't know that they need this at this time.
16

17 Weimer stated he believes that the Council can't add things to the budget outside
18 the budget process. Since this is still part of the biennial budget review, they can put this in
19 there now so they can use it for Superior Court if they can't work it out. This morning, Mr.
20 Desler confirmed that the Council can put things into the budget any time a supplemental
21 budget request comes forward, so it's not important to do this now. Desler stated it's
22 subject to interpretation. It has to do with how much money the Executive determines they
23 have to spend. The Charter indicates that the Council can add programs if they create more
24 money or decide there is more money than the Executive determines. Go slow until they
25 decide it's appropriate, especially during times when they need to make major reductions in
26 the budget.
27

28 Brenner stated the Council received a legal opinion that they can add something as
29 long as it is budget neutral. She hopes to work with the administration this year to find
30 other, programmatic cuts.
31

32 Crawford stated it doesn't make much sense to create a budget amount before they
33 determine what they need. The Executive will come back with a proposal as a result of the
34 committee's recommendation.
35

36 Brenner stated she's glad they had this discussion. Superior Court knows they're
37 working it out. They don't need to do it at this moment.
38

39 The motion failed by the following vote:

40 **Ayes:** Mann and Weimer (2)

41 **Nays:** Kershner, Nelson, Crawford, Brenner, and Knutzen (5)
42

43 Weimer asked if they need to leave \$52,000 in the Planning Department to cover
44 potential problems with permitting fees covering expenses. Desler stated nothing linked the
45 transfer to reducing the budget cut. It's not there.
46

47 Brenner stated she wanted to support this budget amendment, but can't because
48 they can't keep making cuts across-the-board. Decide which programs to cut. Don't cut
49 \$58,000 from the Sheriff's Office. People are struggling more due to the recession, and
50 certain crimes are increasing. She wants to hear from the Sheriff before making such a cut.
51 Remove the item that creates a .5 percent cut across-the-board, work with the Executive's
52 Office, and have a work session to decide which programs to cut instead. Pierce County
53 prioritized essential public services needs versus wants. She would like to do the same

1 thing here. She's been asking for it for a year. She won't approve any more across-the-
2 board cuts.

3
4 Weimer stated he agrees with Councilmember Brenner, and will oppose the
5 ordinance.

6
7 **Brenner moved** to remove item five, which is the .5 percent across-the-board
8 reduction. Every time they do across-the-board cuts, she's agreed. Now, she wants to
9 review the programs instead. She won't agree again.

10
11 Knutzen asked if the Sheriff, unions, and others have already agreed to the
12 reduction. Desler stated it has not. They normally don't take these kinds of matters before
13 the unions.

14
15 Brenner asked what the Sheriff said. Desler stated there is a series of reductions
16 going on throughout the operation. The Sheriff's Department budget in and of itself is \$13
17 million. The efforts on the administration's part to reduce staff through attrition and
18 furloughs is far more than this particular account represents. The Council approved a one
19 percent across-the-board reduction in the vetoed supplemental budget request ordinance in
20 December, except the County Council and Superior Court. The Executive is requesting
21 approval for a .5 percent reduction. It does not include a .5 percent reduction to Superior
22 Court.

23
24 Brenner stated she didn't support the budget, for other reasons. They did what they
25 did. She appreciates that the Executive wants to reduce that cut. Let's go further and not
26 make that cut. If they want to, they have the right to open budgetary stuff and look at
27 programs, even before the biennial budget process. It's getting worse. It's going to
28 happen anyway. Make sure they don't break essential public services in the meantime.

29
30 Pete Kremen, County Executive, stated that the budget stabilization effort included
31 the 3.6 percent minimum across-the-board budget reduction. The Sheriff's Office was
32 exempted from that cut. The Sheriff's Department is not just officers on the road. It is the
33 most visible and highest priority of the Sheriff's Department, but there is a lot of
34 administration, travel, and other components that make up that \$13 million. It's reasonable
35 to request a .5 percent reduction. It's good public policy. It enables the Sheriff to take a
36 look at nonessential aspects of his operation, in conjunction with the rest of the
37 organization.

38
39 Brenner stated she appreciates that. However, she totally trusts the Sheriff. Public
40 safety is the highest priority. The Sheriff has come before them on several occasions, when
41 they've cut his budget. The Sheriff told them how serious it's getting. At one point last
42 year, \$400,000 was cut.

43
44 Knutzen asked if vacant positions due to retiring officers will be filled, given the
45 hiring freeze. He asked how this cut affects their budget. Desler stated the Executive
46 approved a series of replacements for the Sheriff deputies, even though the Sheriff hasn't
47 met the attrition target.

48
49 Kremen stated he already approved the unfreezing of two of the commissioned
50 officers. Two more just became frozen this month. He is taking another look at that, and
51 working with the Union and Sheriff to unfreeze those as well. The Sheriff's Department is
52 getting high priority focus, attention, and treatment. It's a value and priority a large portion
53 of the community shares. The administration respects that priority. It is working with the

1 Sheriff's Office as best it can. They have a great relationship. A half percent for the largest
2 division of the entire organization doesn't ask too much. It's a token percentage to
3 participate in some of the financial pain that they all are sharing. All the other departments
4 within the organization have taken significantly higher hits. Their highest priority is public
5 safety. That will remain. It's good public policy to spread some of the financial burden
6 across the organization.
7

8 Knutzen asked why the Council is exempt from that half percent. He's willing to give
9 up some of his travel expense. They don't need to be exempt. Kremen stated he used to
10 be a legislator. He knows what it's like to have an Executive branch exert what might be
11 considered to be a lot of authority. He wants to work collaboratively with the legislative
12 branch, the County Council. He was disappointed the County Council didn't participate in
13 the budget stabilization effort. He understands. He will leave it up to the Council. The
14 Council approves the budget. That was a Council decision. He hopes that issue is revisited
15 and reconsidered.
16

17 Weimer stated he is against the motion. They can't afford to remove \$200,000 more
18 from the budget. He is against the entire ordinance because the whole process on the
19 budget wasn't particularly targeted or strategic. They could have done a better job. He
20 can't abide by cutting \$500,000 out of the conservation futures fund. It's one of the few
21 taxes in the county that the taxpayers voted on.
22

23 Nelson stated it's also not being used.
24

25 The motion failed by the following vote:

26 **Ayes:** Brenner (1)

27 **Nays:** Kershner, Nelson, Crawford, Knutzen, Mann and Weimer (6)
28

29 The motion to adopt the ordinance as amended carried by the following vote:

30 **Ayes:** Kershner, Nelson, Crawford, Mann and Knutzen (5)

31 **Nays:** Brenner and Weimer (2)
32

33 **4. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
34 **PROFESSIONAL SERVICES AGREEMENT BETWEEN WHATCOM COUNTY AND**
35 **NORTHWEST HYDRAULIC CONSULTANTS FOR ENGINEERING DESIGN OF AN**
36 **INTEGRATED FISH HABITAT AND FLOOD PROJECT ON THE SOUTH FORK**
37 **NOOKSACK RIVER NEAR ACME, IN THE AMOUNT OF \$73,000 (AB2009-055)**
38

39 *(Clerk's Note: Council acting as the Whatcom County Flood Control Zone District*
40 *Board of Supervisors.)*
41

42 **Mann** reported for the Finance and Administrative Services Committee and **moved**
43 to approve the request.
44

45 The motion carried by the following vote:

46 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

47 **Nays:** None (0)
48

49 **5. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A JOINT**
50 **FUNDING AGREEMENT BETWEEN WHATCOM COUNTY AND US DEPARTMENT**
51 **OF INTERIOR, US GEOLOGICAL SURVEY FOR OPERATION AND**
52 **MAINTENANCE OF STREAM FLOW AND WATER TEMPERATURE GAGES IN**
53 **BERTRAND CREEK IN THE AMOUNT OF \$18,800 (AB2010-058)**

1
2 (Clerk's Note: Council acting as the Whatcom County Flood Control Zone District
3 Board of Supervisors.)
4

5 **Mann** reported for the Finance and Administrative Services Committee and **moved**
6 to approve the request.
7

8 Knutzen asked about a Conservation District project for agriculture on a nearby
9 creek.
10

11 Jon Hutchings, Public Works Department, described the background of this item and
12 stated this is a nearby project the Conservation District is referring to.
13

14 The motion carried by the following vote:

15 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

16 **Nays:** None (0)
17

- 18 **6. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
19 **CONTRACT BETWEEN WHATCOM COUNTY AND BROWN AND CALDWELL**
20 **ENVIRONMENTAL ENGINEERS & CONSULTANTS FOR LAKE WHATCOM**
21 **PHOSPHORUS AND BACTERIA TMDL ASSISTANCE, IN THE AMOUNT OF**
22 **\$329,204 (AB2010-035)**
23

24 (Clerk's Note: This item was withdrawn from the agenda.)
25

- 26 **7. ORDINANCE REPEALING WHATCOM COUNTY CODE 2.125, UTILITIES**
27 **PLANNING AND ADVISORY COMMITTEE (AB2010-045)**
28

29 **Knutzen** reported for the Planning and Development Committee and **moved** to
30 adopt the ordinance
31

32 The motion carried by the following vote:

33 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

34 **Nays:** None (0)
35

- 36 **8. ORDINANCE AMENDING THE WHATCOM COUNTY CODE, TITLE 20, TO**
37 **CLARIFY AND REVISE THE DEFINITION AND STANDARDS OF HOME**
38 **OCCUPATIONS (AB2010-047)**
39

40 Knutzen reported for the Planning and Development Committee and stated this item
41 is held in committee.
42

- 43 **9. ORDINANCE CLARIFYING AND REVISING THE DEFINITION AND**
44 **STANDARDS OF ACCESSORY APARTMENTS AND SECOND COOKING**
45 **FACILITIES WITHIN WHATCOM COUNTY'S ZONING CODE, TITLE 20**
46 **(AB2010-048)**
47

48 Knutzen reported for the Planning and Development Committee and stated this item
49 is held in committee.
50

- 51 **10. ORDINANCE CLARIFYING THE APPLICABILITY OF AGRICULTURAL**
52 **PROTECTION OVERLAY (APO) BY INCLUDING THE AREA OF ADJOINING**

1 **ROAD RIGHTS-OF-WAY IN THE CALCULATIONS OF PARCEL ACREAGE FOR**
2 **APO ZONE (AB2010-049)**

3
4 Knutzen reported for the Planning and Development Committee and stated this item
5 is held in committee.

6
7 **11. NOMINATIONS AND APPOINTMENTS TO FILL VACANCIES ON THE FLOOD**
8 **CONTROL ZONE DISTRICT ADVISORY COMMITTEE, TRIBAL**
9 **REPRESENTATIVE AND GEOGRAPHIC REPRESENTATIVES. (AB2010-034)**

10
11 *(Clerk's Note: Council acting as the Whatcom County Flood Control Zone District*
12 *Board of Supervisors.)*

13
14 Nelson nominated Jeff DeJong, Scott Bedlington, Richard Maricle, Mary Raines, and
15 Rodney VandeHoef.

16
17 Knutzen voted for VandeHoef and DeJong.

18
19 Kershner voted for Maricle and VandeHoef.

20
21 Nelson voted for Maricle and VandeHoef.

22
23 Mann abstained.

24
25 Crawford voted for Maricle and VandeHoef.

26
27 Weimer voted for DeJong and Raines.

28
29 Brenner voted for Maricle and DeJong.

30
31 The Council appointed Maricle and VandeHoef.

32
33 ***Nelson moved*** to nominated Jeff DeJong as an alternate, by acclamation.

34
35 The motion carried by the following vote:

36 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

37 **Nays:** None (0)

38
39 ***Nelson moved*** to nominate William Coleman as the Tribal Representative, by
40 acclamation.

41
42 The motion carried by the following vote:

43 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

44 **Nays:** None (0)

45
46 **12. NOMINATION AND APPOINTMENT TO FILL VACANCY ON THE**
47 **SUMAS/EVERSON/NOOKSACK FLOOD CONTROL SUB-ZONE COMMITTEE**
48 **(AB2010-034A)**

49
50 *(Clerk's Note: Council acting as the Whatcom County Flood Control Zone District*
51 *Board of Supervisors.)*

52
53 ***Nelson moved*** to appoint Larry Makes and Richard Adams.

1
2 The motion carried by the following vote:

3 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

4 **Nays:** None (0)

5
6 **13. NOMINATIONS AND APPOINTMENTS TO FILL VACANCIES ON THE**
7 **WHATCOM COUNTY PLANNING COMMISSION (AB2009-386B)**

8
9 **Brenner moved** to nominate and appoint at the same meeting. The Council has
10 always allowed applicants to submit an application right up until 5 p.m. on the evening of
11 the vote. She doesn't know why someone thinks they can't do that. She thought that at
12 the last meeting they said they would not take any more applications.

13
14 The motion carried by the following vote:

15 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

16 **Nays:** None (0)

17
18 Mann read from the Standard Code of Parliamentary Procedure by Alice Sturges, by
19 which the Council operates, regarding a quote on procedure, "Procedure is more than a
20 formality. Without procedural safeguards, liberty would rest on precarious ground, and
21 substantive rights would be imperiled." He stated that quote is from Supreme Court Justice
22 William O. Douglas. The Council has a bit of an image problem at this point. Perhaps they
23 are not aware of some of the procedural standards they should follow. According to the
24 Growth Management Act (GMA), the Council is missing all kinds of deadlines. They owe it
25 to the community to follow their own rules. They have published information on the web
26 about the application process for Planning Commissioners. They should follow those
27 procedures. Originally, there was a deadline for applications. They took last minute
28 applications under the excuse that they've always done it that way. That's not a good
29 enough excuse. They should take time to find out and follow their own rules.

30
31 Brenner stated the rules were not properly printed on the website. The rule has
32 always been to allow people to submit an application until 5 p.m. on the day of the meeting.
33 That's been the Council procedure for years. They are not perfect. If people want
34 perfection over someone who works hard, then they need to elect professional politicians.
35 She stopped reading the editorials. Don't be manipulated by editorials and letters to the
36 editor, or they will lose focus. The councilmembers have great images.

37
38 Crawford stated Councilmember Mann makes a great point. They should set an
39 example for the community, and not bend or change rules. The Council is following the
40 rules by redoing this vote tonight. If the definition of "rules" is a deadline posted on the
41 internet, then the Council blew it. Those on the Council had a different mindset and there
42 was different communication. In the past, the Council Office let people know that it would
43 accept applications to the end of the day. If the definition of "rules" is what the Code says,
44 then the Code does not address a deadline process for the applications. It's not a matter of
45 the Council violating the Code by accepting late applications. The Council broke the rules by
46 not doing a nomination, which they are fixing. This is much ado about nothing, but they
47 have specific regulations to follow.

48
49 Mann stated he asks that councilmembers only vote for people who applied by
50 November 20, 2009.

1 Weimer stated he agrees with Councilmember Mann. There has been a lot of
2 confusion. One way to end the confusion is to fix the Code and designate a deadline so
3 everyone knows what the rules are.

4
5 Crawford stated each councilmember will have to decide what is right and fair, and
6 nominate and vote accordingly.

7
8 Nelson asked if anything precludes someone from putting in an application for
9 Planning Commission at any time, whether or not there are any openings. The question is
10 about the position each applicant is applying for.

11
12 Planning Commission – District 1

13
14 Nelson nominated Theresa Sygitowicz and Jeff Rainey.

15
16 Knutzen voted for Rainey.

17
18 Kershner voted for Rainey.

19
20 Nelson voted for Sygitowicz.

21
22 Mann voted for Rainey.

23
24 Crawford voted for Rainey.

25
26 Weimer voted for Sygitowicz.

27
28 Brenner voted for Sygitowicz.

29
30 The Council appointed Jeff Rainey.

31
32 Planning Commission – District 2

33
34 Crawford nominated Gary Honcoop and Mary Beth Teigrob.

35
36 Knutzen voted for Honcoop.

37
38 Kershner voted for Honcoop.

39
40 Nelson voted for Teigrob.

41
42 Mann voted for Honcoop.

43
44 Crawford voted for Honcoop.

45
46 Weimer voted for Honcoop.

47
48 Brenner voted for Honcoop.

49
50 The Council appointed Gary Honcoop.

51
52 Planning Commission – District 3

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Brenner nominated Rod Erickson, Alan Friedlob, and Michelle Luke.

Weimer nominated Wynne Lee.

Knutzen voted for Erickson and Luke.

Kershner voted for Erickson and Luke.

Nelson voted for Luke and Erickson.

Mann voted for Erickson and Friedlob.

Crawford voted for Erickson and Luke.

Weimer voted for Friedlob and Lee.

Brenner voted for Friedlob and Luke.

The Council appointed Michelle Luke and Rod Erickson.

14. APPROVAL OF A SPECIAL "STANDING" COUNCIL MEETING SCHEDULE FOR 2010 (AB2010-080)

Nelson moved to approve the schedule.

The motion carried by the following vote:

Ayes: Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

Nays: None (0)

15. COUNTY EXECUTIVE PETE KREMEN REQUESTS CONFIRMATION OF HIS APPOINTMENT OF ETHAN REMMEL TO THE WHATCOM COUNTY PUBLIC HEALTH ADVISORY BOARD (AB2010-073)

Weimer moved to confirm the request.

The motion carried by the following vote:

Ayes: Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

Nays: None (0)

16. COUNTY EXECUTIVE PETE KREMEN REQUESTS CONFIRMATION OF HIS APPOINTMENT OF MARK MCDONALD AND RONALD KLEINKNECHT TO THE WHATCOM COUNTY MENTAL HEALTH ADVISORY BOARD (AB2010-074)

Nelson moved to approve the confirmations.

The motion carried by the following vote:

Ayes: Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

Nays: None (0)

1 **INTRODUCTION ITEMS**

2
3 *Nelson moved* to accept the Introduction Items, including the addendum item.

4
5 The motion carried by the following vote:

6 **Ayes:** Mann, Weimer, Kershner, Nelson, Crawford, Brenner and Knutzen (7)

7 **Nays:** None (0)

- 8
- 9 1. **RECEIPT OF AN APPEAL FILED BY WHATCOM COUNTY OF THE HEARING**
- 10 **EXAMINER’S DECISION ON APOL2009-0011, REGARDING CERTAIN**
- 11 **CONDITIONS CONTAINED WITHIN A NOTICE OF PRELIMINARY SHORT PLAT**
- 12 **APPROVAL DOCUMENT FOR SSS2006-00225, KREBS CLUSTER SHORT PLAT**
- 13 **(AB2009-502)**
- 14
- 15 2. **ORDINANCE AMENDING WCC TITLE 20 TO MODIFY THE DATES OF**
- 16 **SEASONAL RESTRICTIONS ON CLEARING ACTIVITIES FROM SEPTEMBER 1ST**
- 17 **THROUGH APRIL 30TH TO OCTOBER 1ST THROUGH MAY 31ST AND IMPOSING**
- 18 **A DEADLINE ON THE ISSUANCE OF DEVELOPMENT PERMITS TO TWO WEEKS**
- 19 **PRIOR TO THE SEASONAL CLOSURE DATE IN THE WATER RESOURCE**
- 20 **SPECIAL MANAGEMENT AREAS (AB2010-075)**
- 21
- 22 3. **ORDINANCE REGARDING ESTABLISHMENT OF A POINT ROBERTS**
- 23 **COMMUNITY ADVISORY COMMITTEE (AB2010-076)**
- 24
- 25 4. **ORDINANCE AMENDING THE 2010 WHATCOM COUNTY BUDGET, SIXTH**
- 26 **REQUEST, IN THE AMOUNT OF \$25,000 (AB2010-077)**
- 27
- 28 5. **ORDINANCE AMENDING WHATCOM COUNTY CODE 24.05, ON-SITE SEWAGE**
- 29 **SYSTEM REGULATIONS (AB2009-135A)**
- 30

31
32 **OTHER BUSINESS**

33
34 There was no other business.

35
36
37 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

38
39 Weimer stated he talked to a group of fifth graders about the legislative branch of
40 County government. It was fun, and he will volunteer to do that again.

41
42 Mann stated he went on a ride-along with a Sheriff deputy Saturday night. He felt
43 very sad for everyone they arrested and their victims. It was all about illegal drugs. Drugs
44 are everywhere out there.

45
46 Knutzen stated he went to the Conservation District last Saturday. It was
47 interesting. He appreciates what they can do to help agriculture, such as continuing to
48 monitor the water flow on the Bertrand Creek in the summertime.

1 **ADJOURN**

2

3 The meeting adjourned at 11:46 p.m.

4

5

6

7

8 _____
Jill Nixon, Minutes Transcription

1 Please contact the Council Office to obtain an
1 official, signed copy:
1
1 360-676-6690 or council@co.whatcom.wa.us
1
1

17 _____
18 Dana Brown-Davis, Council Clerk

Sam Crawford, Council Chair